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Attorneys for Defendant JPMorgan Chase Bank,
N.A.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

MARK MAUSERT AND VERONIKA
LUCIE ZDENKOVA, Husband and Wife,

Plaintiffs,

v.

WASHINGTON MUTUAL BANK,
FEDERAL DEPOSIT INSURANCE
CORPORATION, JPMORGAN CHASE
BANK, N.A., DOES I-C

Defendants.

Case No.

NOTICE OF REMOVAL

I. NOTICE OF REMOVAL

Defendant JPMorgan Chase Bank, N.A. ("Chase"), through the undersigned counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby remove this action entitled *Mark Mausert, et al. v. Washington Mutual Bank, et al.*, from the Second Judicial District Court State of Nevada of Washoe County, to the United States District Court for the District of Nevada-Reno.

1 **II. GROUND FOR REMOVAL**

2 **A. Removal is Based Upon Diversity Jurisdiction.**

3 Plaintiffs are citizens of the State of Nevada. Defendant JPMorgan Chase Bank, N.A. is a
4 national banking association with its "main office" in Cleveland, Ohio, and as such, is a citizen of
5 the State of Ohio. All other defendants have been dismissed from the lawsuit prior to removal.

6 The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and
7 costs. Plaintiffs seek reimbursement of their down payment in the alleged amount of
8 \$315,000.00, forgiveness of the loan in the principal amount of \$948,750.00, and other damages.

9 **B. Defendants' Notice of Removal is Timely**

10 Defendant's Notice of Removal is made within the time limit required under 28 U.S.C.
11 § 1446(b) prescribing that the notice of removal of a civil action or proceeding shall be filed
12 within thirty (30) days after receipt by the defendant, through service or otherwise, of a copy of
13 the initial pleading. Chase has never been served with a summons or complaint. Accordingly,
14 the thirty (30) day time period for filing a notice of removal has not yet begun. *See Murphy*
15 *Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (holding that mere receipt of
16 the complaint unattended by any formal service does not trigger the time for removal). Less than
17 one year has passed after commencement of the action as the original action was filed on August
18 7, 2009.

19 **C. Venue is Proper in this Court**

20 Venue on removal is proper in this Court, pursuant to 28 U.S.C. ¶ 1441(a), because the
21 United States District Court for the District of Nevada-Reno embraces the Second Judicial
22 District Court of Nevada, where the action was first filed. Defendant, however, reserves the right
23 to file a motion to transfer this case to another venue pursuant to 28 U.S.C. § 1404(a), and does
24 not waive its right to do so.

25 **III. LIST OF ATTACHED PLEADINGS**

26 Pursuant to 28 U.S.C. § 1446(a), Defendant attaches hereto copies of all relevant process,
27 pleadings, and orders issued in the Action, including as follows:

- 28 1. Complaint;

2. Amended Complaint;
3. Motion for Temporary Restraining Order/Preliminary Injunction;
4. Motion to Dismiss Amended Complaint Against Washington Mutual Bank and the FDIC.
5. Plaintiffs' Opposition to Defendant FDIC's Motion to Dismiss;
6. Reply to Plaintiffs' Opposition to Defendant FDIC's Motion to Dismiss;
7. Request for Submission of Motion;
8. Order; and
9. Notice of Entry of Order.

IV. SERVICE OF NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(d), contemporaneously with the filing of the Notice of Removal, Defendant is filing a Notice of Filing a Notice of Removal in the Second Judicial District Court for the State of Nevada in and for the County of Washoe County.

Dated: January 27, 2010.

PARSONS BEHLE & LATIMER

By: /s/ David R. Hall

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JPMorgan Chase Bank, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on this 27 day of January, 2010, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing, **NOTICE OF REMOVAL** to:

Mark Mausert, Esq.
930 Evans Avenue
Reno, NV 89512

Robert Hager, Esq.
HAGER & HEARNE
245 East Liberty Street, Ste. 110
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